



Judy Arnold, Chair
Marin County Board of Supervisors

Barbara Pahre, Vice Chair
Golden Gate Bridge,
Highway/Transportation District

Jim Eddie
Golden Gate Bridge,
Highway/Transportation District

Debora Fudge
Sonoma County Mayors and
Councilmembers Association

Eric Lucan
Transportation Authority of Marin

Jake Mackenzie
Sonoma Mayors and Councilmembers
Association

Stephanie Moulton-Peters
Marin Council of Mayors and
Councilmembers

Gary Phillips
Transportation Authority of Marin

David Rabbitt
Sonoma County Board of Supervisors

Carol Russell
Sonoma Mayors and Councilmembers
Association

Kathrin Sears
Marin County Board of Supervisors

Shirlee Zane
Sonoma County Board of Supervisors

Farhad Mansourian
General Manager

5401 Old Redwood Highway
Suite 200
Petaluma, CA 94954
Phone: 707-794-3330
Fax: 707-794-3037
www.sonomamarintrain.org

June 28, 2016

Ms. Adrien Klein
San Francisco Bay Conservation and
Development Commission
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102

VIA E-MAIL & MAIL

RE: Enforcement File No. ER2016.017

Dear Ms. Klein,

Thank you for your May 23, 2016 letter to Mr. Jennings regarding the above-referenced matter. Mr. Jennings has left the employ of SMART. SMART's Chief Engineer has requested that I respond to your letter in Mr. Jennings absence.

SMART appreciates BCDC's offer to resolve this matter without incurring any standardized fines. Towards that end, I offer the following for your consideration.

SMART and NCRA are separate public entities governed by separate Boards of Directors and administered by separate staff. NCRA was formed in 1989 under the North Coast Railroad Authority Act (Govt. Code Section 93000, et seq.) to primarily ensure continuation of freight railroad service in Northwestern California. SMART was formed in 2002 under the Sonoma-Marin Area Rail Transit District Act (Public Utilities Code Section 105000 et seq.) to primarily provide a passenger rail system and multi-use pathway within Sonoma and Marin Counties. SMART's legislation specifically provides that the passenger rail system shall operate in harmony with NCRA's existing freight service over the same rail line.

When SMART acquired its railroad right-of-way it was subject to NCRA's exclusive easement for the operation of freight service. SMART's initial passenger operations consists of right-of-way segments running south to north from Larkspur in Marin County to Cloverdale in Sonoma County. This is considered the shared use (joint passenger and freight operations) portion of SMART's right-of-way. The section of right-of-way identified in your May 23, 2016 letter is located outside the shared use portion of the rail right-of-way.

In recognition that the SMART right-of-way contained both shared and non-shared segments, SMART and NCRA entered into an Operating Agreement in 2011 setting forth terms and conditions for use and management of the various segments.



Letter to Adrien Klein

June 28, 2016

Page 2 of 2

The Lombard segment (where the activity described in your letter occurred) is currently used exclusively for NCRA's freight operation. Pursuant to the Operating Agreement, sections 2.02, 4.02 and 6.01, NCRA has the exclusive right to manage and maintain the track and right-of-way over that portion of the right-of-way. As such, SMART neither conducted any maintenance activities nor had any involvement in any reconstruction of a washed out road at the location identified in your letter. Moreover, SMART is not privy to any maps, drawings, plans or other information required to file the requested "unauthorized work" BCDC application. SMART respectfully submits that it is not the proper party legally responsible under the McAteer-Petris Act for any unauthorized bay fill placed by a known responsible party at the alleged location.

Please don't hesitate to contact me should you have any questions/comments.

Very truly yours,



John Riley
Project Engineer

CC: Bill Gamlen, SMART

